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Before the
Federal Communications Commission
Washington, D.C. 20554

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AUG 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Regulatory Review -	)	
Amendment of Parts 2, 25 and 68 of the	)	
Commission's Rules to Further Streamline	)	
the Equipment Authorization Process for	)	
Radio Frequency Equipment, Modify the	)	**Gen Docket No. 98-68**
Equipment Authorization Process for	)	
Telephone Terminal Equipment, Implement	)	
Mutual Recognition Agreements and Begin	)	
Implementation of the Global Mobile Personal	)	
Communications by Satellite (GMPCS)	)	
Arrangements	)	

To : The Commission

August 26, 1998

REPLY COMMENTS OF PCTEST ENGINEERING LABORATORY, INC.

PCTEST Engineering Laboratory, Inc. ("PCTEST"), hereby submits these reply comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") released May 18, 1998.

Randy Ortanez
President
PCTEST Engineering Laboratory, Inc.
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http://www.pctestlab.com

BACKGROUND AND INTEREST

PCTEST is an EMI/EMC laboratory testing compliance with U.S., Canada, Japan, Australia/New Zealand, and European regulations for electronics equipment. PCTEST was founded in 1989 by a former FCC engineer in response to manufacturers' demand for a laboratory capable of meeting all the Commission's technical requirements.

PCTEST is an accredited independent testing laboratory recognized under NIST's National Voluntary Laboratory Accreditation Program ("NVLAP"). PCTEST meets the requirements of ISO/IEC Guide 25 and ISO 9002 (ANSI/ASQC Q92-1987). PCTEST has conducted numerous tests for compliance with the Commission's technical rules, including Part 68 Registration of consumer products. PCTEST is currently one of only few laboratories worldwide capable of performing Specific Absorption Rate ("SAR") and Maximum Permissible Exposure ("MPE") environmental evaluation measurements of portable and mobile devices for compliance with ANSI/IEEE C95.1-1992 "IEEE Standards for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz".[1]

PCTEST strongly supports the Commission's objective to further streamline the Equipment Authorization Process. **PCTEST commends the Commission for developing the capacity to accept electronic filing of applications through the Internet**[2]. This action and others like it, demonstrate the Commission's willingness to eliminate the traditional administrative procedures without compromising its oversight responsibilities.

PCTEST also supports the Commission's proposal to implement GMPCS equipment authorization procedures with the strict out-of-band emission levels.

PCTEST has concerns, however, regarding the Commission's proposed implementation of the Telecommunication Certifications Bodies ("TCB's") and the Mutual Recognition Agreements ("MRA's").

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[1] See 47 CFR §§ 2.1091, 2.1093

[2] See Report and Order, ET Docket 95-19 (rel. May 14, 1996) at ¶ 10 (PCTEST recommendation).

1. PCTEST recommends that the Qualifications, Responsibilities, and Limitations of Telecommunication Certifications Bodies ("TCBs") be clearly defined.

PCTEST supports the Commission's proposal allowing parties other than the FCC to certify equipment for certain devices. PCTEST also agrees with the TCB's qualification criteria as listed in the NPRM.[3] PCTEST fully understands that improving time-to-market is very important to manufacturers in todays world economy. We strongly believe, however, that a TCB should not be allowed to grant "blanket" authorization or certification of all devices at this time.

PCTEST strongly agrees that certain products such as mobile radio transmitters, unlicensed radio transmitters, scanning receivers, spread spectrum devices, and products that require routine environmental evaluation for RF exposure be "categorically excluded" in these proceedings.[4] Most of these products are normally used in close proximity to the human body and as a result have the greatest potential for exposing the public to the biological hazards of RF radiation. The Commission is well aware that measurements of RF exposure from these devices are subject to wide variation and uncertainty. Furthermore, relatively few people, and a small number of laboratories, have direct experience evaluating compliance with the FCC guidelines for human exposure to RF fields. Recently, the FCC in conjunction with the Food & Drug Administration ("FDA") and sponsored by the IEEE, formed a subcommittee to develop the standard for evaluating portable devices for compliance with SAR limits. To date, the standard remains under development.[5] In light of this circumstance, it seems premature for the Commission to delegate to TCB the authority to evaluate SAR without first adopting the standardized test procedures.

We therefore urge the Commission that TCB certification "categorically exclude" devices that requires routine environmental evaluation for RF exposure pending the adoption of the forthcoming proposal of the IEEE standard subcommittee (SCC-34).

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[3] See NPRM at ¶ 12.

[4] *Id.* at ¶ 11

[5] Subcommittee 2 of Standards Coordinating Committee 34 (SCC-34) sponsored by the Institute of Electrical and Electronics Engineers, Inc. (IEEE) was recently formed to develop recommendations with respect to evaluation of portable devices for compliance with SAR limits using experimental or numerical methods.

Further, PCTEST suggests that the Commission defer TCB certification of newly developed products that may require a "closer oversight" by the Commission. To avoid confusion, we strongly recommend that the Commission explicitly identify which products the TCB may certify for equipment authorization. Finally, we agree that the Commission should continue to certify equipment until complete compliance process harmonization with other countries exists.[6]

2. PCTEST strongly suggests that post market surveillance be conducted by the FCC or TCB in the United States.

PCTEST has strong reservations regarding the Commission's proposal that TCBs be required to perform post market surveillance. It would be a conflict of interest for TCBs to subject their own customers to the risk of audit. Some TCBs may be reluctant to find and report deficiencies in the products of the very customers to whom they market their testing services. **The responsibility and authority to request post-grant or pre-grant equipment should rest only with the Commission.**

PCTEST agrees that TCBs, foreign or domestic, should be allowed to perform periodic compliance testing of production samples they have certified.[7] TCBs should support the Commission's enforcement activities only under very strict conditions. Ideally, a TCB should be allowed to participate in FCC enforcement activities only if participation is under the direct supervision of FCC personnel. We suggest that TCB test sites be made available to the Commission, as an alternate test facility, to conduct compliance or enforcement activities.

As a former FCC employee, I am well aware that resources for FCC enforcement activities are severely limited in SAR testing. It is imperative, however, that samples be routinely requested by the FCC as a means of conveying to manufacturers and the public that the Commission is vigilant in the enforcement of its rules. PCTEST strongly urges the Commission to request samples frequently to promote voluntary compliance. This would give the Commission a low-cost enforcement action.

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[6] NPRM ¶ 11

[7] *Id.* ¶ 17(j)

3. The Commission should consider the difficulties in Mutual Recognition Agreements ("MRA") with Foreign Countries with respect to RF transmitting devices.

PCTEST supports the Commission in the implementation of MRA with the European Community ("EC") to promote bilateral market access, provided it guarantees that American companies receive equal access to European markets. Currently, **no** European government will accept U.S. NIST accredited laboratory test data. PCTEST seriously doubts this impediment can be overcome easily, partly because Europe has different technical standards and operational frequencies for RF transmitting devices.

PCTEST strongly disagrees that, even under the US/EC MRA, products can be tested and certified in the United States in conformance with the European technical requirements, and that products may be shipped to Europe without further testing or certification[8]. Currently, only Canada and a few other countries accept test data from a U.S. laboratories without any further testing or certification. The Commission laboratory, on the other hand, generally accepts test data from any foreign laboratory, even it is not accredited, for equipment authorization. This is not a level playing field. Foreign laboratories enjoy a competitive advantage. Notwithstanding an MRA with any foreign country, we strongly believe that additional testing and/or changes will be required for RF transmitting devices before they can be marketed abroad, unless all countries harmonize their technical standards. PCTEST urges the Commission to take an active role in the TCB's certification of equipment exported to Europe and other countries.[9]

PCTEST also agrees that the Commission should serve as an independent authority to evaluate claims of performance deficiencies by United States TCBs or the noncompliance of specific equipment with European technical requirements.[10]

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[8] See NPRM at ¶ 27

[9] See *Id.* ¶ 30

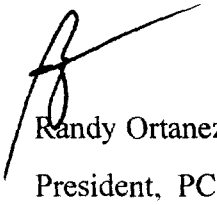
4. The Commission should assess the technical qualification requirements for all TCBs (U.S. or foreign) in addition to NVLAP NVCASE accreditation.

PCTEST agrees that NIST NVCASE program should accredit TCBs according to criteria set forth in ISO/IEC Guide 65 as product certifiers. In addition, the Commission should establish assessment qualification criteria and processes for all TCBs as specified in the NPRM, **including foreign TCBs.**[11] The Commission is the only entity that can determine if a particular laboratory meets the technical qualification requirements outlined in the proposed NPRM.[12]

6. PCTEST proposes that the FCC or TCB issue "E-Grants" for equipment subject to certification.

PCTEST agrees with a number of comments suggesting that the grants issued by the TCBs be uniform and similar to the FCC grants to promote international acceptance. We therefore suggest adopting electronic grants or "E-Grants" issued by the TCB or FCC. Attached is our proposed "E-Grant" which is similar to PCTEST's "Certificate of Compliance" which we currently provide to the manufacturers.[13] As an added security measures, the "E-Grant" should contain a photograph and bar code for proper identification of the product.

Respectfully submitted,



Randy Ortanez

President, PCTEST Engineering Laboratory, Inc.

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[10] See NPRM at ¶ 31.

[11] See *Id.* at ¶ 13.

[12] See NPRM § 2.962

[13] See Attachment A

ATTACHMENT A

Telecommunication Certification Body

http://www.tcblab.com

ELECTRONIC GRANT of EQUIPMENT AUTHORIZATION

Certification

ABC TELECOMMUNICATIONS, LTD.
1 Main Street
Anytown, State 12345 U.S.A.
Attention: D. H. Jones, General Manager

Date of Grant: August 26, 1998
Test Report S/N: TCB.980826999.ABC
TCB Test Site: PCTEST Lab, Columbia MD USA

NOT TRANSFERABLE

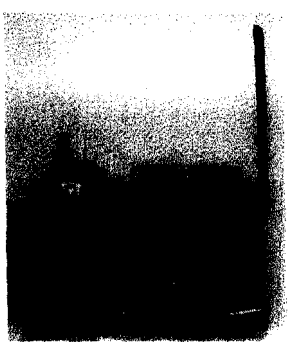
EQUIPMENT AUTHORIZATION is hereby issued to the named GRANTEE, and is VALID ONLY for the equipment identified hereon for use under the Commission's Rules and Regulations listed below.

FCC IDENTIFIER	ABCXXX
Name of Grantee	ABC TELECOMMUNICATIONS, LTD.

EUT Type:	**Cordless Tele**
Tx Frequency:	**43.71 – 4**
Max Output Power:	**0.1 W**
Trade Name/Model(s):	**ABC**
FCC Classification:	**Co Telephone System (ETS)**
FCC Rule Part(s):	**15(c)**

NVLAP or NVCASE accreditation does not constitute any product endorsement by NVLAP or any agency of the United States Government.

TCB certifies that no party to this application has been denied the FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853(a)



e-signature
Name & Title

NVLAP
LAB CODE 100431-0

NVCASE